

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA :

- v. - :

AAFIA SIDDIQUI, : 08 Cr. 826 (RMB)

Defendant. :

- - - - -X

GOVERNMENT'S PROPOSED EXAMINATION OF PROSPECTIVE JURORS

PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for the United States
of America

CHRISTOPHER L. LaVIGNE
DAVID M. RODY
JENNA M. DABBS
Assistant United States Attorneys

- Of Counsel -

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In accordance with Rule 24(a) of the Federal Rules of Criminal Procedure, the Government respectfully requests that the Court include the following questions in its examination of prospective jurors.

Summary of Charges

1. This is a criminal case. There is one defendant in the case, AAFIA SIDDIQUI. The defendant has been charged in an indictment with violating certain federal laws. The indictment was filed by a grand jury sitting in this District.

2. The indictment is not evidence itself. It simply contains the charges that the Government is required to prove to the satisfaction of the jury beyond a reasonable doubt. I would like to summarize the charges in this case in order to determine whether there is anything about the nature of this case that may make it difficult or inappropriate for any of you to serve on the jury.

3. All of the charges relate to offenses that the Government alleges were committed by the defendant on a single date, July 18, 2008, in the town of Ghazni, Afghanistan. Count One charges that, on or about July 18, 2008, the defendant attempted to murder United States nationals, including U.S. Army officers and Special Agents of the Federal Bureau of Investigation, or FBI, by firing a rifle at them. Count Two charges that, on or about July 18, 2008, the defendant attempted to murder officers and employees of the United States who were engaged in, and on account of, the performance of their official duties, including U.S. Army officers, FBI Special Agents, and United States Army interpreters, by firing a rifle at them.

4. Count Three charges that, on or about July 18, 2008, the defendant used a deadly and dangerous weapon, namely, a rifle, to assault officers and employees of the United States who were engaged in, and on account of, the performance of their official duties, including U.S. Army officers, FBI Special Agents, and U.S. Army interpreters. Count Four charges that, on or about July 18, 2008, the defendant used and carried a firearm during and in relation to a crime of violence, namely, the offenses charged in Counts One, Two, and Three of the Indictment.

5. Counts Five, Six, and Seven charge that, on or about July 18, 2008, the defendant assaulted an officer and an employee of the United States who was engaged in, and on account

of, the performance of his official duties, specifically, in Count Five a U.S. Army interpreter, in Count Six an FBI Special Agent, and in Count Seven a U.S. Army officer.

6. Do any of you believe you have personal knowledge of the events charged in the Indictment as I have described them?

7. Have you seen, heard, or read anything about this case in the media, including on TV, in any newspaper or magazine article, or over the internet? If so, has what you saw, heard, or read in any way affected your ability to be a fair and impartial juror in this case? Would you be able to put whatever you saw, heard, or read about this case out of your mind, and decide the case based solely on the evidence presented in court and the legal instructions that I give you?

Knowledge of Trial Participants

8. The defendant in this case is AAFIA SIDDIQUI. Do any of you know, or have you had any dealings, directly or indirectly, with the defendant, or with any relatives, friends or associates of the defendant? [Should the defendant waive her right to be present in the courtroom during jury selection, the Government respectfully requests that the Court display a photograph of the defendant to the prospective jurors on the courtroom monitors. The Government also respectfully requests that the Court advise the jurors: "Like all criminal defendants, Ms. SIDDIQUI has an absolute right to be to be present here in

the courtroom during all proceedings before the jury. Ms. SIDDIQUI has chosen, however, not to be present in the courtroom during the trial. That choice is her right, and you cannot hold it against either the Government or Ms. SIDDIQUI that she is not present. Does any juror think that they would have difficulty deciding this case fairly and impartially because the defendant is not and may not be present in the courtroom, by her own choice, during all or part of the proceedings?"]

9. To your knowledge, do any of your relatives, friends, associates, or employers know the defendant?

10. Ms. SIDDIQUI is represented by the five lawyers you see sitting with her at the table. They are: Dawn M. Cardi, Esq., of the law firm of Dawn M. Cardi & Associates, which is located in Manhattan; Chad L. Edgar, Esq., who is employed by Ms. Cardi's firm; Linda Moreno, Esq., whose office is located in Tampa, Florida; Charles Swift, Esq., of the law firm of Swift & McDonald, which is located in Seattle, Washington; and Elaine Whitfield Sharp, Esq., whose office is located in Marblehead, Massachusetts. Do any of you know any of these lawyers? Have any of you had any dealings - social, professional, or business, direct or indirect - with any of these lawyers or their firms?

11. The Government is represented here, as in all cases where it is a party before this Court, by the United States Attorney for the Southern District of New York, who is Preet

Bharara. The conduct of the trial will be in the immediate charge of Assistant United States Attorneys Christopher L. LaVigne, David M. Rody, and Jenna M. Dabbs. They will be assisted during the trial by Special Agent Mehtab Syed, of the FBI; Detective Jody Almoldovar, of the New York City Police Department; Investigator George Corey, of the U.S. Attorney's Office; and Carly Weinreb, a paralegal in the U.S. Attorney's Office. Do any of you know Mr. LaVigne, Mr. Rody, Ms. Dabbs, Ms. Syed, Mr. Almoldovar, Mr. Corey, or Ms. Weinreb? Have any of you had any dealings - social, professional, or business, direct or indirect - with any of these individuals?

Nature of Charges

12. During the trial, you may hear evidence concerning firearms, including military rifles and pistols. Does the fact that the charges involve firearms offenses and the use of firearms make it difficult for you to decide the case fairly and impartially? Do any of you believe that the federal laws governing firearms should not be enforced, or that the use and possession of firearms to commit violent crimes should not be illegal?

13. During the trial, you may also hear evidence concerning attempted murder, armed assault, and assault. Does the fact that the charges involve attempted murder and other violent crimes make it difficult for you to render a fair and

impartial verdict? Has any juror formed an opinion that the actions charged in the indictment, as I have described them to you, should not be crimes?

14. As I mentioned, the Indictment alleges that the defendant committed all of the charged crimes in the town of Ghazni, Afghanistan. Do you believe that a person living outside of the United States should not be charged with violations of U.S. law? Do you have any views regarding the use of U.S. federal courts to prosecute violations of U.S. law occurring outside of the United States that would prevent you from being fair and impartial in this case?

15. Do you have any views on the U.S. Government's policies and involvement in Afghanistan, Iraq, the Middle East, or elsewhere that would prevent you from being fair and impartial to either side in this case? Is there anything about the U.S. Government's conduct of the ongoing military operations in Afghanistan and Iraq that would make it difficult for you to decide this case based solely on the evidence presented in court and my legal instructions?

16. As I also mentioned, the Indictment charges the defendant with attempting to commit certain crimes. Under the law, attempting to commit an offense is itself a crime; and there is no requirement that the defendant commit the underlying offense or that the attempt be successful in order for the

defendant to be guilty. Do any of you have an opinion concerning whether an attempt that does not accomplish its object or goal may or should still be a crime? Would you have any difficulty following my legal instructions on the law of attempt, or returning a guilty verdict on such a charge if you were convinced that the Government had proven the defendant guilty of an attempt beyond a reasonable doubt?

Armed Forces/Law Enforcement Witnesses

17. The witnesses in this case will include armed forces and law enforcement personnel, including U.S. Army officers and FBI agents. You should judge their credibility just as you would that of any other witness. In evaluating whether you think they are telling the truth, you should neither reward them nor penalize them just because they are armed forces or law enforcement officers. Would any of you be more likely to believe or disbelieve a witness merely because the witness is a U.S. Army officer or an FBI agent?

18. Have you or any relative or close friend ever served in the U.S. Army or any other branch of the U.S. military? If so, what branch were you (or they) in, how long did you (or they) serve, what rank did you (or they) obtain, and what type of discharge did you (or they) receive? Would anything about your (or your relative's or close friend's) military service make it difficult for you to be fair and impartial in this case?

19. Do you have any views on the U.S. military's policies and involvement in Afghanistan, Iraq, the Middle East, or elsewhere that would prevent you from being fair and impartial to either side in this case? Is there anything about the conduct of the U.S. military – or the actions of U.S. soldiers – in the ongoing military operations in Afghanistan and Iraq that would make it difficult for you to decide this case based solely on the evidence presented in court and my legal instructions?

20. Have you or any relative or close friend ever been employed by the FBI, the NYPD, or any other law enforcement agency, whether federal, state, or local? If so, what agency were you (or they) employed by, how long were you (or they) so employed, what rank did you (or they) obtain, and what type of job or role did you (or they) perform? Would anything about your (or your relative's or close friend's) law enforcement employment make it difficult for you to be fair and impartial in this case?

21. Do you have any views on the use of U.S. law enforcement personnel, including FBI agents, in connection with the ongoing military operations in Afghanistan and Iraq that would make it difficult for you to decide this case based solely on the evidence presented in court and my legal instructions? Do you believe that FBI agents and other U.S. law enforcement personnel should not be involved in overseas missions or operations in other countries?

Relationship with Government

22. Do any of you know, or have any association - professional, business, or social, direct or indirect - with any member of the staff of the United States Attorney's Office for the Southern District of New York or the FBI? Are you, or is any member of your family employed by any governmental agency, whether federal, state, or local?

23. Do any of you have any bias, prejudice, or other feelings for or against the United States Attorney's Office or the FBI? Has any juror, either through any experience you have had or anything you have seen or read, developed any bias or prejudice for or against the United States Attorney's Office, the FBI, or any other United States Government agency?

24. Have you, or has any member of your family, either as an individual, or in the course of business, ever been a party to any legal action or dispute with the United States, or with any of the officers, departments, agencies, or employees of the United States, including the Internal Revenue Service? Have any of you had any legal, financial, or other interest in any such legal action or dispute, or its outcome? In particular, have you, or has any member of your family, ever had a dispute concerning payment of money owed to you by the Government?

Experience as Witness, Defendant, or Crime Victim

25. Have any of you ever been a witness or a complainant in any federal or state prosecution?

26. Are you, or is any member of your family, now under subpoena or, to your knowledge, about to be subpoenaed to testify in any criminal case?

27. Have any of you, or any of your relatives or close friends, ever been involved or appeared as a witness in any investigation by a federal or state grand jury? Have you, or any of those close to you, ever been questioned in any matter by a federal, state, or local law enforcement agency?

28. Have you, or has any member of your family, any associate, or close friend, ever been charged with any crime, apart from minor traffic infractions?

29. [If there are any affirmative answers to the proceeding question] Do you feel that you [your family member, close friend] was treated fairly by law enforcement and the court system? Would anything about that experience affect your ability to be fair and impartial in this case?

30. Have you, or have any of your relatives, associates, or close friends, ever been the subject of any investigation or accusation by any federal or state grand jury, or by any congressional committee?

31. Have you, or any of your close friends or relatives, ever been a victim of a crime? [If there are any affirmative answers to this question, the Government respectfully requests that the Court inquire, at the bench or in the robing room, into the circumstances of each crime.]

Relevant Names and Locations

32. I will now read a list of names of individuals who may be mentioned during the trial, or who may be witnesses in this case:

[list of names to be provided]

33. Do any of you know any of these people? Have you had any dealings, either directly or indirectly, with any of these them?

34. I will now tell you about some locations that may be mentioned or shown during the trial:

[list to be provided]

Do any of you live at any of these locations or have close friends or family who do?

Prior Jury Service

35. Have any of you, at any time, served as a member of a grand jury, whether in federal, state, county, or city court? If so, when and where did you serve?

36. Have any of you ever served as a trial juror in any court? If so, when, and in what court did you serve, and was

it a civil or criminal case? What was the nature of the case?
Did the jury reach a verdict?

Function of Court and Jury/Legal Principles

37. The function of the jury is to decide questions of fact. You are the sole judges of the facts and nothing that the Court or the lawyers say or do may encroach in any way on your role as the exclusive fact-finders. When it comes to the law, however, you are to take your instructions from the Court, and you are bound by those instructions. You may not substitute your own notions of what the law is, or what you think it should be. At the conclusion of the case, your job will be to determine whether or not the defendant is guilty as charged in the Indictment, based on the law as I give it to you. Do any of you have any bias or prejudice that might prevent or hinder you from accepting the instructions of law that I will give you in this case?

38. Will each of you accept the proposition that the question of punishment is for the Court alone to decide, and that the possible punishment must not enter into your deliberations as to whether the defendant is guilty or not guilty?

39. Will each of you accept the proposition of law that sympathy must not enter into the deliberations of the jurors as to whether the defendant is guilty or not guilty, and that you

must use only the evidence produced here in Court to make that determination?

40. It is not a particularly pleasant duty to find another individual guilty of committing a crime. Is there any juror who feels that, even if the evidence established the defendant's guilt beyond a reasonable doubt, you might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?

41. Do any of you have any religious, philosophical, or other belief that would make you unable to render a guilty verdict for reasons unrelated to the law or evidence?

42. Some of the evidence admitted at trial may come from searches performed by law enforcement officers. I instruct you that those searches were legal and that the evidence obtained from those searches is admissible in this case. Do you have strong feelings about searches conducted by law enforcement officers or the use of evidence obtained from searches at trial that would prevent you from being fair in this case?

43. You may also hear testimony from expert witnesses. I instruct you that the use of such witnesses is entirely lawful. Have any of you had any experiences with experts, or do you have any general feelings about the use of experts, that would make it difficult for you to render a wholly fair and impartial verdict?

Questions of Perception/Ability to Serve

44. Do any of you have problems with your hearing or vision that would prevent you from giving full attention to all of the evidence at this trial?

45. Does anyone have any medical condition or illness, or is anyone taking any medication, that would prevent you from giving full attention to all of the evidence at this trial?

46. Do any of you have any difficulty reading or understanding English in any degree?

Jurors' Backgrounds

47. The Government respectfully requests that the Court ask each juror to state the following information:

- (1) the juror's family status;
- (2) the juror's educational background (highest grade completed) and occupation;
- (3) the general location where the juror currently works;
- (4) the period of employment with that employer;
- (5) the same information concerning other employment within the last five years;
- (6) the same information with respect to the juror's spouse and any working children;
- (7) the geographical area in which the juror resides;
- (8) what newspapers and magazines the juror reads and how often;
- (9) what television shows the juror watches and how often; and

(10) what internet websites the juror regularly reads or checks.

Concluding Question

48. Throughout these questions, I have tried to direct your attention to possible reasons why you might not be able to sit as a fair and impartial juror. Apart from any prior question, do any of you have the slightest doubt in your mind, for any reason whatsoever, that you will be able to serve conscientiously, fairly, and impartially in this case, and to render a true and just verdict without fear, favor, sympathy, or prejudice toward either the defendant or the Government, and according to the law as it will be explained to you?

**Requested Instruction Following
Empaneling of the Jury**

49. From this point until the time when you retire to deliberate your verdict, it is your duty not to discuss this case, and not to remain in the presence of other persons who may be discussing this case. The rule about not discussing the case with others includes discussions even with members of your own family and your friends. If at any time during the course of this trial, any person attempts to talk to you or to communicate with you about this case, either in or out of the courthouse, you should immediately report such attempt to me through my courtroom deputy. In this regard, let me explain to you that the attorneys, the defendants, and the witnesses in the case are not

supposed to talk to jurors, not even to offer a friendly greeting. So if you happen to see any of them outside this courtroom, they will, and should, ignore you. Please do not take offense. They will be acting properly by doing so. In this connection, when the Court is in recess, please stay either in the jury room or somewhere outside the courtroom. Please do not wait in the courtroom.

Dated: New York, New York
January 5, 2010

Respectfully submitted,

PREET BHARARA
United States Attorney
Southern District of New York

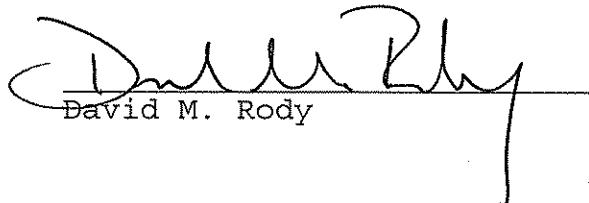
By: 

Christopher L. LaVigne
David M. Rody
Jenna M. Dabbs
Assistant United States Attorneys
(212) 637-2325/2304/2212

CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2010, I caused a copy of the foregoing Government's Proposed Examination of Prospective Jurors to be served on all counsel of record.

Dated: New York, New York
January 5, 2010


David M. Rody